



**The Complaints Board of the
European Schools**

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ANNUAL REPORT FOR THE YEAR 2020 OF THE CHAIRMAN OF THE COMPLAINTS BOARD OF THE EUROPEAN SCHOOLS

BOARD OF GOVERNORS OF THE EUROPEAN SCHOOLS

Meeting on 13-15 April 2021



The Complaints Board of the European Schools

ANNUAL REPORT FOR THE YEAR 2020

For the Complaints Board, the year 2020 was marked by:

- the Covid-19 pandemic and its consequences (I);
- a resignation, for strictly personal reasons (II-2);
- an unprecedented increase in the number of appeals, in particular those lodged against the decisions of the European Baccalaureate Examining Board (III-1).

I – The Covid-19 pandemic and its consequences for the Complaints Board

1.

As happened worldwide, the Complaints Board was impacted by the Covid-19 pandemic.

As from mid-March 2020, measures were introduced to guarantee its proper operation, continuity of public service and the rights of persons coming under its jurisdiction, whilst adapting its procedures to the constraints imposed by the different national authorities to protect citizens' health.

The staff of the Registry were able to arrange to work 100% remotely, thanks to the logistical and IT assistance provided by the Office of the Secretary-General.

As the members of the Board were unable to travel to Brussels, priority had to be given to written proceedings and the handling of cases without a hearing (as allowed by Article 19 of its Rules of Procedure), having recourse if necessary to written questions put by the judge-rapporteur (Article 18 of the same set of Rules).

2.

In the context of this health crisis and of the suspension of *in situ* lessons with effect from 16 March 2020, the Board of Governors of the European Schools adopted the decision '*Consequences of COVID-19 - Risk Assessment and Proposed Actions*', the terms of which were approved at the meeting of 15-17 April 2020 (document 2020-03-D-44-en-1).

Those decisions, concerning in particular assessments of pupils in the second semester and organisation of the 2020 Baccalaureate, gave rise to many questions and reactions.

Thus, a very large number of appeals (most of which were duplicated by appeals in summary proceedings) were lodged, seeking annulment of the so-called 'moderation' rule applied to the 2020 Baccalaureate final mark. We will return to this subject in point III - 2), 4.2.

The pandemic and its consequences also gave rise to certain appeals against either decisions taken by the Central Enrolment Authority for the Brussels European Schools (point III – 1) - 3) or about category III pupils' school fees (point III – 2), 4.2).

3.

Without formally lodging appeals, many parents also approached the Complaints Board to contest decisions and measures taken by the Secretary-General and/or the Directors of Schools in the context of organisation of online lessons, of the School's temporary closure (or, on the contrary, of its opening, etc.) and of the health measures introduced in classrooms, the canteen or school transport.

Families in serious financial difficulties also turned to the Complaints Board to request assistance.

All these questions asked and concerns expressed by parents, who were worried and anxious about the consequences of the pandemic for their children's education, had to be listened to and referred to the competent authorities, even though a contentious appeal could not be formally registered.

It should be pointed out here that the Complaints Board deals administratively (without formal registration) with appeals that are manifestly inadmissible or unfounded, or over which it does not have jurisdiction (civil or criminal liability, bullying, management, teachers' teaching skills, questions concerning the management of day care and after-school centres or school transport).

In the year 2020, all that work 'behind the scenes', which does not appear in the statistics, represented a far heavier workload than in other years (point III – 1), 1).

II - Composition, organisation and operation of the Complaints Board

1.

Mr Eduardo MENENDEZ-REXACH still chairs the Complaints Board.

The Board is still organised in two sections, its members being assigned to one or other section in rotation, so as to prevent any compartmentalisation between the two formations.

2.

The Members of the Complaints Board took formal note, at the end of December 2020, of Mr Michel AUBERT's decision to resign from office, for strictly personal reasons.

They wish to thank him most sincerely here for his dedication and his remarkable work in the Board's service.

The procedure to appoint a new member, in place of Mr AUBERT, is under way.

3.

The same applies to the procedure seeking renewal of Mr Ó CAOIMH's term of office.

4.

There were no changes in the Registry.

III – Judicial activity of the Complaints Board in 2020

1) Number and categories of appeals registered¹

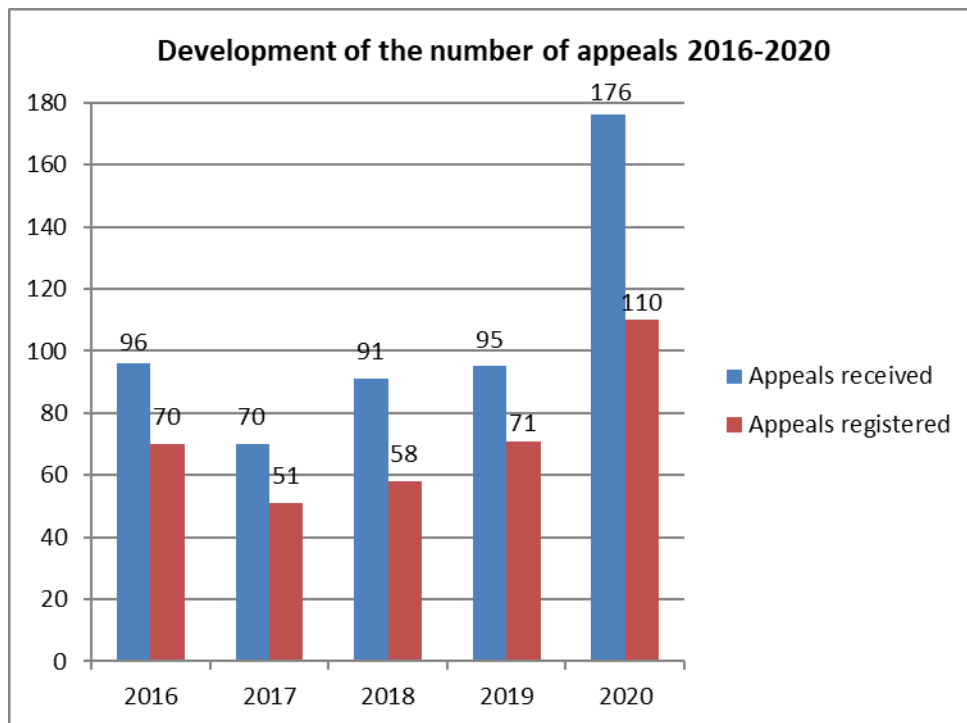
1.

The year 2020 was marked by an unprecedented increase in the number of appeals: 110 appeals (including 28 in summary proceedings) were registered and submitted to the Complaints Board for consideration.

¹ The figures presented may not correspond exactly to those put forward in the Annual Report of the Secretary-General of the European Schools on account firstly, of a slightly different classification of categories of appeals and secondly, of a possible lag timewise from one year to the next (the administrative appeal is dealt with during year N and the contentious appeal during year N+1).

The graph below illustrates the pattern of development of the number of appeals over the period 2016-2020.

Appeals 'received' are those dealt with without being formally registered, following an exchange between the Registry and the applicant, given the manifestly inadmissible and/or unfounded nature of the appeal.



2.

In this exceptional year, it was the appeals lodged against the decisions taken by the European Baccalaureate Examining Board which caused the figures to skyrocket and which were the most numerous: 54, including 23 in summary proceedings.

Attention should be drawn here to the complexity of the pleas raised in support of those appeals, most of which had been prepared by a lawyer. We will return to this in point III - 2), 4.2.

3.

Next came direct appeals lodged against decisions of the Central Enrolment Authority for the Brussels European Schools (hereinafter referred to as the CEA): 32, including 3 in summary proceedings.

Here too, the health crisis and its consequences (including lockdown) cropped up in appeals, the applicants having put forward as arguments:

- increased risks of infection and the need to avoid school transport and to favour walking or cycling instead;
- the need to protect vulnerable people in the household;
- deterioration of the child's psychological state (anxiety, feeling of abandonment and loss of confidence) to justify a return to the school attended previously;
- practical difficulties resulting from the health measures to justify a late enrolment, in phase 2 (case of *force majeure*).

As regards the CEA's decisions, the disputes continued to concern the **language section** determined at the time of enrolment (Article 47(e) of the General Rules of the European Schools) and the taking into consideration of **priority criteria**, with the aim of obtaining the first choice school (health problems in particular).

There is another source of dispute that is still fairly common with respect to enrolment in the Brussels Schools: consideration of cases of *force majeure* invoked in the event of non-compliance with the enrolment phases, which is sanctioned by outright rejection of the belated enrolment application, regarded as inadmissible (Articles 2.5 to 2.7 of the 2020-2021 Enrolment Policy). The CEA does not award a place in any school, even though the applicants have a right of access to the European Schools as officials of the institutions (category I). In some cases, parents have alternatives (Belgian schools, *Deutsche Schule*, British School or staying at the school already attended) but in other cases they do not. The right to education and the principle of proportionality are then at issue.

Finally, it should be noted that even though successive Enrolment Policies have for several years ruled out both the **geographical argument** (travel between home / school assigned / parents' place of work) and the **constraints involved in the organisation of travel and of family life**, and despite the Complaints Board's settled and consistent case law, which points out that they are not priority criteria, appeals are still being lodged, highlighting the (very) long journeys between the child's home and the school assigned and the ensuing consequences: excessive tiredness (especially for the youngest children), loss of time (time that cannot be devoted to studies, to extra-curricular activities or to sleep) and ecological and environmental considerations (pollution, wasted energy, green mobility more difficult to put into practice, for example, walking or cycling).

4.

The other contentious appeals submitted to the Complaints Board in 2020 were lodged after rejection of a prior administrative appeal to the Secretary-General of the European Schools (in descending order in number) were as follows:

- appeals lodged by teaching staff (seconded or locally recruited teachers);
- appeals against Class Council decisions (repeating a year);
- appeals against refusals of a change of Language 1 or 2;
- appeals concerning the payment of school fees;
- a single appeal against a disciplinary decision;
- an ONL (Other National Languages) appeal;

- an appeal concerning Educational Support;
- an appeal lodged against "*behaviours*" of the management of a School that the applicant considered to be "*prejudicial to his private interests*";
- an appeal lodged against a decision of the Board of Governors;
- an internal referral (Article 40a RP);
- an appeal seeking rectification.

5.

It should be emphasised, moreover, that the Complaints Board's activity cannot be reduced to figures or statistics on the number of appeals lodged and dealt with.

Other aspects of its activities need to be highlighted here:

- a) The **complexity of the pleas in law** raised by applicants in support of their appeals, in particular when they are assisted by a lawyer, leads to a substantial amount of work: the arguments are more detailed and complex and require the members of the Board to engage in a considerable amount of work involving analysis and searching for case law, particularly that of the Court of Justice of the European Union, in order to take account in their decisions of the general principles of law accepted in the European Union.
- b) The Board also takes care to publish and summarise its case law so as to ensure its coherence; case law that is relatively consistent and accessible via the **database** allows the organs of the European Schools to learn from it (the European Schools' bodies do, moreover, draw lessons from certain decisions delivered by the Complaints Board) and allows applicants to scrutinise it before lodging an appeal in order to evaluate their chances of success. Updating of this database is essential and contributes to maintaining the number of appeals within reasonable proportions and to dealing with them with an appropriate and efficient tool.
- c) **The revision of translations:** this represents a substantial workload – which cannot be seen from the figures and statistics – for the Registry and the members of the Complaints Board concerned. The reason is that the translators made available to the Complaints Board are not generally lawyer-linguists and, with exceptions, they do not have a command of legal language and/or of the terms specific to the regulations applicable in the European School system. This question, often raised in previous annual reports, is still very much an issue.

2) Decisions delivered by the Complaints Board in 2020

1.

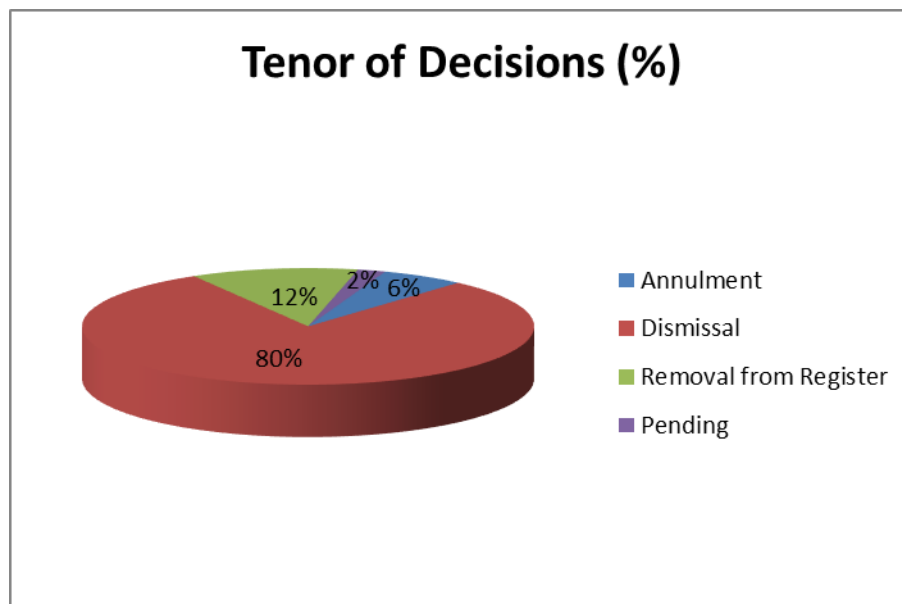
In accordance with the provisions of the Rules of Procedure, the different appeals were investigated and ruled on, depending on the cases, by decisions delivered in proceedings with the written submissions of the parties followed by a hearing, by decisions delivered in proceedings with the written submissions of the parties, but not followed by a hearing, by reasoned decisions or orders without the submissions of the parties, by interim orders or by orders to remove cases from the register.

In the year 2020, marked by the health restrictions caused by the Covid-19 pandemic, the Complaints Board was unable to hold any hearings.

All the cases were dealt with *without a hearing*, as allowed by Article 19 of its Rules of Procedure, having recourse, if necessary, to written questions put by the judge-rapporteur (Article 18).

2.

The graph below illustrates the proportions in which appeals were **allowed** (annulment of the decision adversely affecting the applicant(s)), **dismissed** (after investigations or by reasoned decision) or **removed from the register**.



The figures for 2020 show a **relatively stable annulment percentage**: 6% in 2020² (compared with 8% in 2019 and with 9% in 2018) – subject to one decision pending.

Removals from the register because there was no need to adjudicate, or because of withdrawal, in so far as the parties had reached an agreement, implicitly or explicitly, should be added to this percentage. Those removals from the register are annulments that are not visible in the figures but are the reflection of an equally favourable outcome for the applicant.

Finally, it should be noted that only one applicant made use of the internal referral mechanism introduced in May 2016.

The Complaints Board endeavours to be a place where litigants are listened to carefully and, even if their appeal is dismissed, some applicants say that they are pleased to at least have had the opportunity to express their views and to be heard and to have received answers to their questions.

3.

Before highlighting some of the decisions delivered in 2020, the **role of the Complaints Board**, the sole court or tribunal specific to the *sui generis* European School system, should be recalled.

Its mission involves **reviewing on its own the legality** of acts of the different organs of the European School system. It ensures, with rigour and independence, effective respect for the rights of litigants (teachers, pupils and parents, but also the decision-making organs of the European Schools) in the system, taking care to ensure that in all circumstances they are afforded “*adequate legal protection*”, as intended by the Convention defining the Statute of the European Schools.

It exercises its review of the legality of acts with respect to both **regulatory provisions specific to the European School system** and **general principles of law** (statement of the grounds on which administrative acts are based, principles of equal treatment and proportionality in particular) **and the fundamental rights of the European Union**, accepted by the Court of Justice of the European Union (right to effective legal protection and respect for the rights of defence in particular).

It is, moreover, indeed with that in mind that both the Service Regulations for Locally Recruited Teachers, which entered into force on 1 September 2016, and the Service Regulations for Locally Recruited Managerial Staff of the European Schools, approved by the Board of Governors at its meeting of 14-17 April 2020, aim to guarantee that the rules applicable to such staff “*are in line with fundamental rights as laid down in the Charter of Fundamental Rights of the European Union.*”

In its judgment of 14 June 2011 (Miles and others v European Schools – case C-196/09), the Court of Justice of the European Union did indeed accept that the Complaints Board fulfilled

² This percentage was calculated solely on the basis of the cases investigated; if all the appeals registered with the Complaints Board are taken into account (110), this annulment percentage goes down to 2.72%.

all the criteria allowing it be classified as a "*court or tribunal*" within the meaning of Article 267 TFEU: established by law, permanence, mandatory nature, *inter partes* procedure, application of rules of law, independence (see in this connection the findings of Advocate General Sharpston, points 52 and 53 and point 85, where the judicial function of the Complaints Board and its structural links with the EU legal system are underlined).

And, moreover, as Advocate General Mengozzi pointed out, in joined cases Oberto and O'Leary (C-464/13 and C-465/13: judgment of the Court of 11 March 2015 and points 58-60 of the findings of the Advocate General), the Complaints Board accepts that the fundamental principles, or the general principles, which are commonly acknowledged both in the legal order of the European Union and in that of the Member States are 'capable' of being used as a point of reference to guide the actions of the bodies of the European Schools over and above the rules of law peculiar to them.

It is thus clear from both the case law of the Complaints Board (see in particular the judgments handed down on appeals 07/14 of 31 July 2007, 08/06 of 5 August 2008, 08/51 of 25 May 2009 and 09/01 of 20 December 2011) and that of the Court of Justice of the European Union (see the aforementioned judgments) that the European Schools' legal system, being a *sui generis* one that is distinguished from both that of the European Union and that of the Member States, albeit bringing about a form of cooperation between them, the fundamental principles commonly acknowledged both in the legal order of the European Union and in that of the Member States must at least be used as a point of reference for the actions of their bodies and that it is therefore admissible for litigants to invoke the illegality of acts of the authorities coming under the European School system, not only in the light of the Convention defining the Statute of the said Schools and of the texts applicable pursuant thereto but also in the light of the general principles of law of the European Union.

The organs of the European Schools system, including its Complaints Board, could not therefore envisage that the general principles of law accepted by the Court of Justice of the European Union should not inspire the legal order of the European Schools, nor that the Complaints Board, as an institution set up by the Convention to ensure, in complete independence, adequate judicial protection for the persons referred to therein, should not ensure compliance with those principles.

4.

Amongst the most interesting decisions delivered by the Complaints Board during the year 2020, some deserve to be highlighted.

4.1 Decisions resulting in annulment

- **In the disciplinary area**

In its **decision 20-05 of 15 June 2020**, the Complaints Board allowed an appeal against a decision to expel a pupil, by application of the principle of proportionality.

It annulled the disciplinary decision, considering that expulsion from the school (the harshest punishment) was disproportionate in relation to the seriousness of the misconduct, as established and put in context, and in relation to the limits of what is necessary and appropriate from an education and training viewpoint.

- **Concerning a decision of the Central Enrolment Authority**

Only one decision of the CEA was annulled.

By its **decision 20-11 of 31 July 2020**, the Complaints Board allowed the appeal against a refusal of a pupil's transfer, a transfer application that the applicants justified by their child's behavioural problems.

The Board judged here that child protection justified the transfer sought and hence annulment of the CEA decision that had refused it.

- **Concerning the dismissal of a locally recruited teacher**

By its **decision 20-03 of 28 May 2020**, the Complaints Board allowed the appeal lodged against a decision to dismiss a locally recruited teacher, in application of the respect of the rights of the defence.

Not only did the Complaints Board conclude, on the basis of the concrete evidence in the file that the grounds for dismissal were not valid but it also judged that in its rationale for dismissal for misconduct, the School had not followed the procedure guaranteeing respect of the locally recruited teacher's rights of defence: *"The Schools cannot at one and the same time adopt a decision to dismiss a member of staff on account of failure to fulfil the obligations laid down by Article 43 of the Service Regulations and described, formally, as misconduct making him liable to disciplinary action and, simultaneously, follow a different procedure (termination as provided for in Article 16.2) that does not offer the same procedural guarantees as those provided for in Article 44 of the Service Regulations."* (end of point 27).

4.2 Decisions rejecting the applicants' claims

Amongst the – most frequent – decisions rejecting applicants' claims, the following deserve our attention.

- **Concerning the 2020 Baccalaureate and the so-called 'moderation' rule**

As stated previously, a very large number of appeals – most of which were duplicated by appeals in summary proceedings – were lodged, seeking annulment of the so-called 'moderation' rule applied to the 2020 Baccalaureate final mark.

The pleas, numerous and serious, were virtually identical in all the appeals and the Board was duty bound to consider them all carefully, fairly and quickly.

Faced with this unprecedented challenge, the Board had to innovate to manage all those appeals within reasonable time periods, whilst also guaranteeing the parties' rights.

Thus, only some appeals were investigated, after which an interim order was issued or a decision on the substance of the case was delivered, those then being used as a benchmark to state the grounds for reasoned orders pertaining to appeals not investigated.

Reference can be made here to **interim orders 20-33R and 20-34R** and to **decisions 20-40 and 20-56**, published on the Board's website.

The **appeals lodged in summary proceedings** were all dismissed, on the ground:

- on the one hand, that one of the conditions for seeking an interim order was lacking: *"The cumulative nature of the conditions governing summary proceedings means that in the absence of only one condition – in the case here, a real risk of absence of effectiveness of the right to appeal – the measure sought cannot be granted. Furthermore, and in any event, it should be pointed out that the protection required can be examined only in relation with the measures requested in summary proceedings and with regard to the limitations on the power of the judge giving a ruling in summary proceedings, who cannot encroach on the powers of the judge dealing with the substance of the case, by prejudging the decision to be taken in the context of the main appeal."* ;
- and on the other, that the urgent interim measure sought (namely, that the Complaints Board should order the issuing of the Baccalaureate diploma, on a provisional basis, showing the pre-moderation mark) could not be issued: *"... a Baccalaureate diploma cannot be provisional in nature: on the contrary, it is definitive in nature in terms of the rights that it creates and of the decisions taken on its basis, such as, specifically, admission to higher education institutions. The Complaints Board cannot therefore, under any circumstances, grant this application. This is all the more the case since provisional issuing of this diploma would mean that it would be issued in anticipation of the decision to be taken in the context of the main appeal, the applicant assuming that it will be identical in respect of this point. That would mean anticipating the decision on the substance of the case in the main appeal, something which the judge giving a ruling in summary proceedings is unable to do. Hence, the pleas relating to the substance of the case put forward in this appeal, which are identical with those put forward in the context of the main appeal, must be examined in that context, without the limitations specific to summary proceedings, where the judge can only give a ruling on an interim basis, just as the other pleas put forward in the application relating to the substance of the appeal cannot be examined at this stage in the proceedings but only once the two parties have had the opportunity to set out all their arguments and evidence, as required by the principle of inter partes proceedings (equality of arms)."*

The **substantive (main) appeals** were also all dismissed:

- The Board first acknowledged the **admissibility of the appeal**, in the name of the right to effective legal protection against application of the so-called 'moderation' rule. In so far as they contested the difference between the final mark in the Baccalaureate before and after application of that rule, the substantive (main) appeals were all regarded as admissible.
- The Board then considered the **admissibility of the pleas raised**, pointing out that pursuant to Article 12.2. of the AIREB, a complaint or an appeal relating to the Baccalaureate may only concern a procedural irregularity.

"19. Now the decision of the BGES of 15-17 April 2020, like those of the BIS and of the Chairman of the EB Examining Board of 15 June 2020, to apply moderation, on the basis of which the applicant's overall mark in the EB was determined, establish the conditions for the EB's organisation in 2020, in view of the constraints arising from the global health crisis caused by the spread of the coronavirus. They therefore constitute decisions of a pedagogical nature that fall outside the power to review the legality of acts conferred on the Complaints Board within the limits set by Article 27 of the Statute of the European Schools. It follows therefrom that only the pleas raised by the applicants relating to the procedure followed by the European Schools to implement the general provisions that resulted in application of the moderation system, and in determination accordingly of the overall mark in the EB contested in this particular case, are admissible. There is no alternative but to reject all the other pleas. (Our underlining).

- It then remained for the Complaints Board to consider the **procedural pleas** raised: unenforceability of the method (in that the arrangements for calculation of moderation had been approved and published *after* communication of the Baccalaureate results), lack of competence of the decision-makers, irregularities in the procedure for preparing decisions and, finally, a failure to state reasons for the decisions.

After careful consideration of each those pleas, they were dismissed as unfounded.

- **Concerning the other decisions of the Board of Governors taken in the context of the Covid-19 pandemic**

The parents of a pupil had, in a first appeal (duplicated by an appeal lodged in summary proceedings), sought annulment of the decision of the Board of Governors of 15-17 April 2020 in so far as it provided for the award to secondary year 6 pupils of the same B mark in the second semester as the one achieved in the first semester.

It was therefore the new assessment rules designed to compensate for the absence of written examinations in the second semester that were criticised.

After having dismissed the appeal lodged in summary proceedings, the Complaints Board also dismissed, in its **decision 20-22 of 1 September 2020**, the substantive (main) appeal against

the decision of the Board of Governors, judging that *"The decision of the Board of Governors to derogate, on account of the exceptional circumstances of the pandemic, from the ordinary assessment method defined in the General Rules justifies, in this particular case, an interpretation of Article 62 of those same Rules that allows an appeal to be lodged against the Class Council's decision, even in the absence of the need to repeat the year."*

As the Schools themselves had acknowledged in substance, the applicants could lodge, on the basis of Article 62 of the GRES, an appeal against the decision adopted by the Class Council on their child pursuant to the decision of the Board of Governors of 21 April 2020: their appeal against the decisions of general and regulatory application taken by the Board of Governors should therefore be declared inadmissible.

The same parents then lodged with the Board an appeal (also duplicated by an appeal lodged in summary proceedings) against the Class Council's decision and their daughter's school report, which reflected the contested decisions of the Board of Governors.

In its **decision 20-65 of 16 October 2020**, the Board acknowledged their appeal's admissibility, in the name of the right to effective legal protection, but judged that the contested decisions of the Board of Governors fell outside the scope of its power to review their legality since the decisions in question were of a pedagogical nature.

As in the case of appeals lodged against the so-called 'moderation' rule for the 2020 Baccalaureate, the Board judged that *"... only pleas relating to the procedure followed by the European Schools to decide on and then implement the provisions decided by the Board of Governors in April 2020, including the one to replicate the first semester B mark in the second semester, are admissible"* (point 14) and, as a result, found that the pleas put forward by the applicants were inadmissible.

- **Concerning category III pupils' school fees**

The Covid-19 pandemic also placed some families in serious financial difficulties, leading them to request a reduction in or even an exemption from school fees for their children attending the European Schools as category III pupils.

One of those families lodged a contentious appeal before the Board.

By its **decision 20-74 of 25 January 2021**, the Board could only dismiss that appeal, having found on the one hand, that there had been compliance with the provisions applicable in the area and on the other, that there had been no decision of general application adopted by the Board of Governors allowing the Schools to grant an exemption from or a reduction in school fees: *"It is not for the Complaints Board to supersede the legislator, even less to preclude application of the rules in force, laid down by the competent authorities of the European Schools or resulting from contractual arrangements with parents."*

- **Concerning the Board's jurisdiction in locally recruited teachers' disputes**

In its **decision 20-59 of 4 December 2020**, the Complaints Board had occasion to specify the limits of its jurisdiction *ratione materiae* concerning locally recruited teachers' contracts.

In the case in point, the applicant was bound simultaneously by a locally recruited teacher's contract (as a teacher) and by a contract of employment subject to Belgian law (as a supervisor).

The School's management had terminated the two contracts by a single decision and the applicant had then taken his case to the Complaints Board *and* to the Brussels Labour Court.

Drawing on the measures taken in the European Union to settle related actions and *lis pendens* situations and thus to prevent irreconcilable decisions from being delivered in two Member States, the Complaints Board judged that the objective of harmonious operation of justice was also incumbent upon it, so as "*to prevent judgments from being irreconcilable with those of national courts in situations such as those that emerge in particular from Article 27-7 of the Convention defining the Statute of the European Schools or from Article 3-2 of the Service Regulations for Locally Recruited Teachers.*"

Finding that the applicant's applications must be examined on the basis of two quite separate legal systems (Service Regulations for Locally Recruited Teachers for one and Belgian social law for the other), the Board considered that separate judgment of the two legal disputes would risk leading to irreconcilable solutions; in the absence of a *lis pendens* and related actions situation, it therefore asserted that it had jurisdiction to deal with the submissions made to it by the applicant, but only to the extent that they related to the legality of the contested decision "*in so far as it terminates his employment as a locally recruited teacher.*".

As regards the substance, the Board dismissed the appeal, judging that termination of the locally recruited teacher contract had been adopted in compliance with the provisions of the Service Regulations applicable to that contract.

IV – Outlook?

At the time of writing, the Covid-19 pandemic is unfortunately still not under control and it is highly likely that it will continue to be necessary to accommodate its effects in 2021.

It is very difficult for the moment to envisage the possibility of hearings being held in Brussels in 2021, in conditions compatible with health measures and procedural guarantees; at best, it will be possible for them to be held after the summer, when mass vaccination will have taken place in most European Union Member States and when the members of the Complaints Board will be able to travel to Brussels without fear or restriction.

At the present time, the members of the Complaints Board are not in favour of the idea of holding virtual hearings (by videoconference), for reasons of confidentiality and the requirement for members to meet "*at the Board's seat*" (Article 10 of its Statute).

Priority will therefore continue to be given to the written procedure and to the handling of cases without a hearing (as allowed by Article 19 of its Rules of Procedure), having recourse if necessary to written questions put by the judge-rapporteur (Article 18 of the same set of Rules) or by postponing, if necessary, hearings until the health conditions will permit.

* *

By way of conclusion, attention should be drawn here to the fundamental role of the Complaints Board, the sole tribunal specific to the *sui generis* European School system, charged with providing adequate legal protection by ruling, completely independently, on the legality of the acts which it is expected to review.

It thus contributes, as an organ of the system which gives ruling in complete independence on disputes assigned to it, to the smooth operation of the European Schools.

The Chairman of the Complaints Board has to be able to rely on the necessary assistance of the authorities of the European Schools in general and of the Secretary-General in particular, so that it can continue to discharge its mission under proper conditions. That was the case in 2020, for which thanks are expressed here.

Finally, in concluding this report, the Chairman of the Complaints Board wishes to thank publicly his colleagues and the members of staff of the Registry for the diligence which, as is the case each year, they showed, particularly in the year 2020, turned upside down as it was by the pandemic, and in difficult operating conditions. Their ready availability at all times enables the Board to carry out its mission, with due regard for the principle of continuity of public service.

Brussels, March 2021

Eduardo MENENDEZ-REXACH
Chairman of the Complaints Board